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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by the Special Representative of the Commission, Mr. Gustavo Gallón, pursuant to Commission resolution 1999/19

CONTENTS

		Paragraphs	Page
EXECUTIVE SUMMARY			3
INTRODUCTION		1 - 10	5
I	BACKGROUND	11 - 17	7
II	SITUATION OF CIVIL AND POLITICAL RIGHTS	18 - 71	8
A	Right to vote and to be elected	18 - 25	8
B	Rights to equality and self-determination (racial discrimination)	26 - 28	10

CONTENTS (continued)

			Paragraphs	Page
	C	Right of association (and protection of human rights defenders)	29 - 31	11
	D	Freedom of the press and right to information	32 - 38	12
	E	Freedom of movement	39 - 42	13
	F	Right to physical freedom and integrity of the person, and conditions in detention centres	43 - 59	14
	G	Right to due process (and independence of the judiciary and separation of powers)	60 - 71	18
III	ECONOMIC, SOCIAL AND CULTURAL RIGHTS		72 - 94	20
	A	General economic situation	72 - 75	20
	B	Right to health	76 - 80	21
	C	Right to work	81 - 84	22
	D	Right to education	85 - 86	22
	E	Status of women	87 - 91	23
	F	Rights of girls and boys	92 - 94	23
IV	TECHNICAL ASSISTANCE TO EQUATORIAL GUINEA IN THE FIELD OF HUMAN RIGHTS		95 - 112	24
V	CONCLUSIONS		113 - 132	29
VI	RECOMMENDATIONS		133 - 146	31
	A	Civil rights	134	32
	B	Freedom of opinion	135	32
	C	Principle of legality	136	32
	D	Right to justice	137	33
	E	Equality of women	138	33
	F	Political rights	139	33
	G	Economic, social and cultural rights	140	33
	H	Other recommendations	141 - 146	34

EXECUTIVE SUMMARY

Mr. Gustavo Gallon (Colombia) was appointed as Special Representative of the Commission on Human Rights for Equatorial Guinea in August 1999, and entrusted with the mandate of monitoring the situation in the country and submitting a report, including recommendations on the implementation of the technical assistance programme. He made his first visit to the country from 7 to 21 November 1999.

Equatorial Guinea gained independence from Spain in 1968 and the President elected that year established a dictatorship until he was overthrown in 1979 by the current President of the Republic. Deep-seated intolerance of dissent has characterized the exercise of power throughout the country's history, as reflected in the absence of a written press, restrictions on the organization of political parties, non-governmental organizations and trade unions, restriction of freedom of movement, and internal exile, arbitrary detention and torture. All of this is taking place in circumstances where 65 per cent of the population lives in extreme poverty, there is marked discrimination against women, and enjoyment of the rights to health and education is extremely precarious, especially for children.

The serious situation which the Special Representative found in the country has been studied in detail and brought to the Commission's attention by the former Special Rapporteurs and the Independent Expert appointed by the Commission every year without interruption since 1979. Their repeated and concurrent substantive observations and recommendations continue to be valid because, in most cases, no action has been taken on them. Account must nevertheless be taken of the progress made through Equatorial Guinea's accession to some international human rights conventions and its acceptance, since 1992, of the legal existence of political parties other than the governing party, as a result of which parliamentary, municipal and presidential elections have been held. Also worthy of note are the amnesties, programmes for persons returning from exile and design of institutions based on democratic ideas, such as the Constitutional Court, and the understandings reached between the governing party and the opposition parties in 1993 and 1997. These worthwhile achievements have, however, not basically changed the systematic practice in Equatorial Guinea of human rights violations protected by impunity.

The practice of committing such violations is possible because there is no sustained rule of law; rather, power is concentrated in the hands of the executive, with the support of a government party which controls employment in Government and private enterprise. The executive is also reinforced by the dominance of the military, which is no different from the police and even exercises jurisdiction over civilians.

Equatorial Guinea is a country composed of four separate territories and five indigenous ethnic groups, and this may give rise to serious conflicts in the future. However, its advantages are that its people are generally peaceful, its small size makes it easy to govern, its small population makes for the adequate distribution of resources and enormous sources of wealth have been discovered in the past few years as a result of oil exploration and development. Unless these favourable elements are taken advantage of soon in order fully to guarantee respect

for civil, political, economic, social and cultural rights, the situation in Equatorial Guinea may not only continue to reveal a consistent pattern of violations, but may also become worse, and possibly uncontrollable.

The Government and representatives of the international community told the Special Representative that they were interested in supporting the country as it moves towards democracy, respect for human rights and an improvement in living standards. Technical assistance may be useful for this purpose, provided that it is preceded by the adoption of a specific programme. The first step in such a programme would be the adoption of recommendations which do not require technical assistance for their implementation, and whi have been formulated time and again over the past 20 years. These recommendations include order putting an end to arbitrary arrest and torture, the authorization of freedom of expression and freedom of the press, the elimination of permits to leave the country, the removal of milita roadblocks inside the country, the periodic publication of legislation, the ratification of the international instruments which Equatorial Guinea has not yet accepted (such as the Conventi against Torture and the Convention on the Elimination of Racial Discrimination), and a decisi to deal with impunity for human rights violations.

Once these and other similar recommendations have been implemented, the Governme might agree with the international community on a timetable and a description of the cooperat activities it needs to give effect to the remaining recommendations through technical assistanc These recommendations relate, inter alia, to the independence of the judiciary, the codification laws, the elimination of discrimination against women, political pluralism, and the satisfaction basic food, adequate housing, health, education and employment needs. Such an agreement, which would be based on Commission on Human Rights recommendations and decisions, mus be implemented by the United Nations system as a whole, in coordination with and under the supervision of the Commission, through its Special Representative or some other similar procedure. It would be desirable for interested Governments to coordinate their human rights assistance activities on the basis of the adoption and implementation of such a plan. The Commission should make an appeal along the same lines to the multinational corporations working in Equatorial Guinea.

For all the above reasons, the Special Representative recommends that the Commission on Human Rights should continue to monitor the situation of human rights in Equatorial Guine and give it even greater attention in order to bring about the prompt implementation of the recommendations that have repeatedly been made to that country for over 20 years. In addition to renewing the Special Representative's mandate, it should request him to contribute to an agreement on, and the coordination and monitoring of, a programme of human rights cooperati with the Government of Equatorial Guinea for the benefit of the population, in order to ensure that the efforts the Commission has been making there for over two decades become more productive and to prevent the outbreak of wider conflicts affecting the international community as a whole.

INTRODUCTION

1 Equatorial Guinea has been under public scrutiny by the Commission on Human Rights since 1979, the year when the Commission ended the confidential investigation it had been carrying out since 1976 under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII) and decided, in its resolution 15 (XXXV), to consider the question in accordance with the public procedure provided for in Council resolution 1235 (XLII). It therefore decided to request a special rapporteur of the Commission, to be appointed by the Chairman of the Commission, to make a thorough study of the human rights situation in Equatorial Guinea. Mr. Fernando Volio Jiménez (Costa Rica) was appointed. From 1980 until 1992, Mr. Volio's mandate as Independent Expert was renewed each year by the Commission with a view to assisting the Government of Equatorial Guinea in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations he had made as Special Rapporteur. In his last annual report, submitted to the Commission in 1993, Mr. Volio pointed out that "There has been no change in the human rights situation in Equatorial Guinea" and that "The political and institutional conditions that seriously hinder both the free exercise and due legal protection of fundamental rights persist" (E/CN.4/1993/48, para. 23).

2 In accordance with the Commission's decision, its Chairman appointed Mr. Alejandro Artucio Rodríguez (Uruguay) as the new Special Rapporteur in 1993 and he submitted annual reports to the Commission for six years. In his last report, submitted at the fifty-fifth session in 1999, the Special Rapporteur confirmed the conviction he had "expressed in his earlier reports regarding the precarious nature of the progress achieved in the observance of human rights and fundamental freedoms. Accordingly, he advised the Commission not to relax its monitoring of the situation, as any crisis might mean an immediate regression, depriving the population of all legal protection, and pose the risk of a return to practices that violate human rights, especially torture of detainees, arbitrary detention and limitations on the parties' political action" (E/CN.4/1999/41, para. 10). In resolution 1999/19 of 23 April 1999, the Commission decided to continue to keep the human rights situation in Equatorial Guinea under review through a special representative entrusted with the task of monitoring the situation in order to submit to the Commission a report which would also include recommendations on the implementation of the programme of technical assistance for the country.

3 Also at its fifty-fifth session in 1999, the Commission decided to limit the mandate of its special rapporteurs to no more than six years and the Chairperson appointed Mr. Gustavo Gallón Giraldo (Colombia) as the new Special Representative for Equatorial Guinea in August 1999. The mandate of the new Special Representative does not differ substantially from that entrusted to the former Special Rapporteur, except that it has been bolstered, since he was requested to again monitor the human rights situation and, in addition, to formulate recommendations to the Commission on the technical assistance that might be provided to the country. The change of name nevertheless confused the people of Equatorial Guinea because the local media, which are government-controlled, implied that the new title of representative of the Commission reflected its recognition of the Government's good human rights record.

4 Following his appointment in August, the new Special Representative agreed with the Government of Equatorial Guinea that he would visit the country from 7 to 21 November 1999. He travelled with a human rights consultant provided by UNDP, Mr. Carlos Rodriguez Mejia, and a staff member of the Office of the United Nations High Commissioner for Human Rights. Their professionalism and painstaking dedication were key factors in ensuring that the mission went well. Following an initial one-week stay in the capital, Malabo (on the island of Bioko), they went to the mainland region of Rio Muni for five days and then ended the mission three days later in Malabo. They had meetings in those places with many representatives of the Government, private individuals, diplomats and United Nations officials. In the mainland city of Bata, they were received by the President of the Republic, His Excellency Obiang Nguema Mbasogo, with whom the Special Representative had a frank and open discussion about the main aspects of the human rights situation.

5 Owing to limited space and concern about the security of some of the persons who spoke with the Special Representative (whom he thanks and remembers individually), much of the information received and many of the names of the persons interviewed have been omitted from this report.

6 The Special Representative was received by the following representatives of the Government in Malabo: the Prime Minister, the Minister for Foreign Affairs and International Cooperation, the Minister of the Interior and Local Communities and Second Deputy Prime Minister, the Minister of Justice and Worship, the Minister for Social Affairs and the Status of Women, and the Deputy Minister for National Security. He also held meetings with the President of the House of Representatives of the People, the members of the National Human Rights Commission of Equatorial Guinea, the President of the Supreme Court and the President of the Constitutional Court.

7 In the mainland region of Rio Muni, he met with the representative of the Ministry of Foreign Affairs, the Governor and the Regional Representative of the Ministry of Information, Culture and Tourism, and with the national security authorities. He also travelled inland to meet with the peripheral authorities in Niefang and Añisok.

8 The Special Representative regrets that he did not have the opportunity to meet with other senior government officials. He thanks the authorities for the support he received during his visit, but would urge them to set the agenda for a future visit in advance. This was requested with sufficient notice, but without success. He would also draw attention to the lack of cooperation by some government officials in Bata who were responsible for facilitating contacts with the peripheral authorities.

9 The Special Representative was able to meet with diplomatic representatives, including the Ambassadors of Cameroon, France, Gabon, Morocco and Spain, the representative of the European Commission and the representatives of the United Nations agencies working in the country: WHO, FAO and UNICEF. He was also in constant contact with the UNDP Resident Representative in Equatorial Guinea, Ms. Sylvie Kinigi; he is grateful to her and her colleagues for their invaluable support and kindness, without which the mission could not have taken place.

10. The Special Representative visited the public prisons in Malabo and Bata, and the police stations in both cities. He wishes to express his appreciation to the authorities in charge of the detention centres for having allowed him to speak freely and in private with any inmates he wished. However, he regrets that he was not allowed access to the Bata gendarmeria. He also regrets that two inmates at Bata police station were not allowed to meet him.

I. BACKGROUND

11. Equatorial Guinea has a surface area of 28,000 km^2 and a population of approximately 450,000 inhabitants (51.2 per cent women and 48.8 per cent men) belonging to five indigenous ethnic groups - Fang, Bubi, Ndowe, Bisio and Annobonese - as well as other residents. The Fang ethnic group is by far the largest. Although the Bubi account for only a minority of the total population, they make up the majority of the inhabitants of the island of Bioko, where the capital, Malabo, is located.

12. Equatorial Guinea, a territory of conquest, slavery and colonization since 1471, acceded in 1963 to a regime of autonomy within the Spanish State, which led to full independence in 1968. Until then, there had been little development of human resources, democratic institutions and local wealth, even though Equatorial Guinea was the world's leading producer of cacao.

13. A great many internal divisions have hampered political understanding among Equatorial Guineans for years. In addition to ideological preferences and the personal aspirations characteristic of any power struggle, such understanding is hindered by the problems of coexistence faced by five different ethnic groups in a territory without spatial unity, with one part located on the mainland and the three others in completely separate island groups. In the midst of such divisions, Fernando Macias was elected President in 1968; his regime became an arbitrary dictatorship and he was overthrown in 1979 by the current President of the Republic, Obiang Nguema Mbasogo, who was then a lieutenant-colonel and Minister of Defence.

14. Since then, various institutional adjustments have been made, some of which have had the establishment of democratic institutions as their reference point or aim, although, according to the former Special Rapporteur, "there remains some way to go before democracy and the rule of law are finally achieved" (E/CN.4/1998/73, para. 71). A new constitution was adopted in 1981 and this in turn was amended by another, which was submitted to a referendum in November 1991. The latter was harshly criticized by the then Independent Expert of the Commission on Human Rights because, inter alia, it gave the Head of State absolute immunity "before, during and after his mandate" (E/CN.4/1992/51, para. 111). That provision was amended in 1995 by Constitutional Act No. 1 of 17 January 1995, which states that "The law shall govern the privileges and immunities of Heads of State after their mandate".

15. In 1987, the President of the Republic founded the Partido Democratico de Guinea Ecuatorial (PDGE), which was the only legally recognized party for over five years. In January 1992, a law was enacted allowing for the formation of other parties and, in March 1993, they and the Government concluded a "National Pact" in which the Government undertook to adopt measures to guarantee political pluralism and respect for human rights. A few months later, however, the Supervisory and Monitoring Commission for the Pact, which had been

established with the participation of the parties, was dissolved because the parties considered th they lacked guarantees for the parliamentary elections held on 21 November 1993

16 A new electoral act under which municipal elections were held was adopted in 1995 The opposition won 33 per cent of the total number of municipalities, i e nine town councils, including that of the capital, Malabo Presidential elections from which the only candidate of th Joint Opposition Platform was banned and in which the incumbent President won 99 per cent of the votes were held one year later on 25 February 1996 In April 1997, the Government and the political parties concluded a new agreement, known as the "Document on the Evaluation of the National Pact and Legislative Agreements", which revived the National Pact and aroused great expectations As part of the evaluation, decrees providing for the establishment of various specialized commissions to agree on democratic guarantees for the various political forces were issued that year They still have not come into being

17 There is no armed conflict in Equatorial Guinea From time to time, there have been acts of violence against the Government, but there is no standing armed rebel group The most recent act of this kind was the attack carried out on 21 January 1998 by members of the Bubi ethnic group against soldiers and police, two of whom were killed and genitally mutilated, this led to deep-seated revulsion Another soldier and three civilians also lost their lives as a result of the attack A court martial found about 100 persons criminally responsible for the attacks (E/CN 4/1998/73/Add 1) Two years previously, in 1996, the leader of a different organization, the Progress Party, and some of his associates were convicted of trying to organize an armed expedition by sea from Angola in order to carry out a coup d'etat On the island of Annobon (500 km by sea from the capital, with a population of about 1,000), the persons responsible for a riot against the authorities were found guilty in 1992 An attempted coup d'etat for which various persons were convicted was foiled in 1988 The Government is, of course, exposed to attacks on the security of the State which may be the work of various social sectors, but so far they have been disjointed, disorganized, unsystematic and ineffective In Equatorial Guinea, the Special Representative did not learn of any plans or action aimed at the organization of an armed struggle or violent insurrection

II SITUATION OF CIVIL AND POLITICAL RIGHTS

A Right to vote and to be elected

18 The parliamentary elections originally scheduled for November 1998 were held on 7 March 1999 According to the Government's official results (which the Special Representative was unable to study in detail), the governing party, the PDGE, won 75 of the 80 seats which make up the Parliament, while the opposition won only 5 seats 4 were won by the Union Popular (UP) party and 1 by Convergenica para la Democracia Social (CPDS) Before these elections the opposition had held 12 seats The two above-mentioned opposition parties considered the result of the election to be fraudulent and decided, in protest, not to enter the new Parliament However, two UP representatives, defying their party, took their seats and were subsequently expelled from the party

19. The Special Representative was informed that the election had gone off relatively quietly, without major incidents. However, he also received reports of many irregularities and cases of harassment of the opposition. These reports may be summarized as follows:

(a) The various commissions established under the above-mentioned agreements of 1993 and 1997, although set up by presidential decree, were unable to meet or work normally, leaving the opposition unable to participate in the electoral process;

(b) The agreement on the legalization of all parties which had applied for recognition was not complied with;

(c) The continued presence of roadblocks manned by soldiers all over the country, despite the agreements to the contrary, prevented the normal conduct of the opposition parties' election campaign;

(d) Contrary to the agreements of 1993 and 1997, opposition activists were occasionally arrested for short periods. The Special Representative was able to meet with members of the opposition who had been subjected to ill-treatment or torture and arbitrary detention for a few days, after which they had been released without charge or explanation. Mr. Antimo Oyono Mba and Mr. Joaquin Mbana Nchama, both leading members of the UP party, were detained at Bata police station during the night of 1 March, after a PDGE group had disrupted a party meeting in which they were taking part. Like many other persons interviewed by the Special Representative in other places, they were tortured by having their feet severely beaten;

(e) The detention of opposition activists was occasionally accompanied by the imposition of substantial fines, established arbitrarily by the governmental authorities;

(f) There were irregularities in the compilation of the electoral rolls, such as the inclusion of minors, deceased persons or persons not resident in the country, and the exclusion of names of opponents of the regime;

(g) In some places, especially in the most remote areas, the ballot was reported to have been public. During the electoral campaign, the PDGE itself had called on its supporters to cast their vote publicly. Electors had had to choose the ballot papers within the sight of polling officers or only found ballot papers enabling them to vote for the governing party;

(h) Opposition party observers were obliged to leave several polling stations at the time of the vote. The Special Representative was informed that Milagrosa Obono Ndong, electoral representative of the CPDS opposition party in Acurenam, was arrested by Luis Oyono, Governor of Centra Sul, on 6 March 1999 to prevent her from participating in the vote and, while under arrest, she was raped by José Luis Abaga Nguema, Evinayong district judge;

(i) Soldiers behaving in an intimidating manner were present near polling stations, according to numerous consistent witnesses;

(j) Several people were dismissed from their jobs for political reasons, both in the State administration and in the private sector.

20. For its part, the Government of Equatorial Guinea considers that the country is currently at a stage where democracy is being consolidated and that the period of transition to democracy is over. In its opinion, the overwhelming victory of the governing party demonstrates the weakness of the opposition, which does not have a valid political agenda. The Government assumes that the proper conduct of the election has been confirmed through the presence of international observers. Nevertheless, representatives of the international community accredited in Equatorial Guinea, and also members of the delegations who attended as international observers, agreed that the elections lacked transparency.

21. During his visit, the Special Representative was informed of an agreement concluded on 21 October 1999 between the Government and the political parties, whereby it was decided to postpone until the first quarter of 2000 the municipal elections which were to have been held at the end of 1999.

22. The Progress Party (PP) was declared illegal under a criminal sentence imposed on its leader in 1997, he was found guilty of having attempted, in Angola, to prepare a coup d'etat in Equatorial Guinea in 1996, as has already been stated. As an accessory penalty, and although the PP was not a party to the trial, the court ordered it to be banned. The PP is still awaiting a response to its appeal against that decision. The Special Representative, like his predecessor the Special Rapporteur, would appreciate it if the authorities would consider the appeal lodged by the PP, absolving it of responsibility for acts perpetrated by its leader in a personal capacity.

23. The Fuerza Democrata Republicana (FDR) party, which has not yet been legalized, has been awaiting recognition since 1995. Leaders of this party are currently imprisoned in Malabo and Bata. The Special Representative regrets that the competent authorities have not yet considered the party's application for recognition, despite the fact that provision was made for this in the agreements of April 1997.

24. Another party whose application for legalization has not been dealt with by the authorities is the Independent Democratic and Social Party (PIDS), headed by the lawyer Jose Olo Obono.

25. Also considered illegal are the activities of the organization claiming to represent the interests of the Bubi ethnic group, the Movement for the Self-Determination of the Island of Bioko (MAIB), since electoral legislation bans political parties of an ethnic character.

B. Rights to equality and self-determination (racial discrimination)

26. As has been repeatedly stated in the reports of the preceding Special Rapporteur, members of the Bubi ethnic group continue to be subjected to discrimination by the Fang majority, which holds power. Various forms of harassment against the Bubi are a daily occurrence, especially whenever they try to pass any of the numerous military roadblocks which exist on the island. One of the most frequent complaints is the shortage of local agricultural produce in Malabo market since the Bubi are not allowed to travel there to sell their produce.

27. In the opinion of some government representatives, discrimination is not a problem in Equatorial Guinea, and for this reason the Government does not consider it necessary to ratify the International Convention on the Elimination of All Forms of Racial Discrimination. This argument, instead of justifying the country's unwillingness to accede to the Convention, would appear to be a reason for Equatorial Guinea to extend its cooperation to the international community in action to combat racism, especially in the year 2000, which is devoted to this issue. Consequently, the Special Representative deems it appropriate to reiterate the recommendation made by his distinguished predecessors that it should ratify the Convention as soon as possible.

28. According to members of the Government, the MAIB does not exist; it is simply an invention of foreign interests and accordingly must not be legalized. However, the Special Representative was able to interview members of this ethnic group and noted the existence of discrimination against the Bubi population, who support or sympathize with the MAIB. The situation has grown even tenser since the events of 21 January 1998 when, as already stated, members of the Bubi ethnic group launched attacks which killed three soldiers and three civilians. Although the Special Representative shares the Government's indignation at the seriousness of these events, it must bear in mind that the right to self-determination does not imply disregard of a State's right to unity and sovereignty, as has been duly clarified by the Committee on the Elimination of Racial Discrimination (general recommendation XXI [48] adopted in 1996 and published in the Official Records of the General Assembly, A/51/18, annex VIII, B). Consequently, the Special Representative respectfully reiterates the invitation to the authorities of Equatorial Guinea to appropriately recognize this right and prevent the occurrence of a major conflict, as suggested by the preceding Special Rapporteur (in his report E/CN.4/1997/54, para. 61).

C. Right of association (and protection of human rights defenders)

29. Act No. 1 of 1999, establishing regulations relating to non-governmental organizations, does not include, within the activities which they may undertake, that of safeguarding and promoting human rights. Some people accordingly consider that any organization engaging in this activity may be considered illegal. This is contrary to the Vienna Declaration and Programme of Action, as already noted by the preceding Special Rapporteur (E/CN.4/1996/67, para. 50), and to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly (resolution 53/144 of 9 December 1998). Consequently, although the Act does not set forth the defence of human rights as an activity peculiar to non-governmental organizations, the Special Representative urges the authorities to permit activities in this field by anyone wishing to engage in them and to rectify the omission from the Act as soon as possible.

30. The Act's related regulations are excessive and casuistic. The Special Representative recommends that, in applying them, account should be taken of the primacy of the right of association, which is recognized both in article 13 (k) of the Constitution of Equatorial Guinea and in article 22 of the International Covenant on Civil and Political Rights. In future, special

care must be taken to ascertain whether their application tends to restrict the effective enjoyment of the right of association and, if it does, a reform properly guaranteeing this right must be undertaken.

31. There are no trade unions in Equatorial Guinea. On 1 October 1992, Act No. 12/1992 was adopted to regulate union activity, but there are no reports of it having entered into force (see para. 84).

D. Freedom of the press and right to information

32. Except for a few limited and sporadic publications, there is no daily, weekly or fortnightly press organ in Equatorial Guinea. The normal information media are the radio and television, which are controlled by the Government; they operate more as propaganda tools than information carriers, and exclude participation by opponents or dissidents.

33. The Special Representative saw the following publications on sale: La Gaceta, the periodical AYO, and El Ébano, the official organ of the Ministry of Information, Tourism and Culture. He had no news of three newspapers which had applied for authorization to publish some years before: El Tiempo (since July 1996), La Hoja del Periodista (March 1998) and La Opinión (April 1998). None of the existing publications appears with any regularity, although La Gaceta endeavours to publish every month. There are also some information bulletins published by political parties: "La Voz del Pueblo" (governing PDGE party) and "La Verdad" (CPDS party). Regular news about Equatorial Guinea is broadcast via Radio Exterior de España, a fact which is a constant source of irritation to the authorities.

34. In another section of this report (paras. 54 and 55) information is given on the case of two people who were arrested on 9 November 1999 for possession of an article published on the Internet referring to the health of the President of the Republic. At the time of writing this report (mid-December 1999) these people were still being held. Their situation is indicative of a disturbing disregard of the right to information and freedom of opinion in Equatorial Guinea.

35. The Special Representative received reliable reports that priests are not allowed to refer in their sermons to any subject that may be considered prejudicial to the interests of the State.

36. There is a Boletín Oficial del Estado (official gazette) which occasionally publishes the text of laws, but not all laws and not systematically or periodically. Parliament does not have its own publication, with the result that bills are not published. Moreover, the authorities consider that some bills (such as the budget) should not be published and that the public only have a right to learn about them in detail once they have become law. Similarly, the judicial branch has no publication of its own. All these facts limit the exercise of rights by the population as a whole, and indeed by officials of the executive and judicial branches and lawyers.

37. The reason given to the Special Representative for the absence of an official press to publish legislation was the shortage of resources; this argument is unconvincing. The cost of a printing press to meet the country's needs is not excessive. Even if it was expensive, the same difficulty has been put forward as an excuse year after year, while no action has been taken to gradually raise the necessary resources. In this connection, reference should be made to the

observation made by the preceding Independent Expert eight years ago: "Also noteworthy is the president's request for the United Nations to help the country by providing it with a printing press (letter dated 23 September 1991, addressed to the Under-Secretary-General for Human Rights) when the country has already been given a working printing press capable of meeting its needs by the Government of Spain" (E/CN.4/1992/51, para. 117). In addition, in 1999 the Government of the United States gave UNDP a cheque to be forwarded to the Government as a donation for the purchase of a press; because of internal difficulties within the Government, the cheque has not been cashed.

38. A positive development is the agreement concluded between the Government and the periodical La Gaceta whereby the latter undertakes to publish the text of a law in every edition. However, the partial and occasional publication of current legislation cannot be regarded as sufficient to contribute to the rule of law. As has already been recommended, publication by a competent State organ is a necessary condition for increasing knowledge of and respect for the law, both by citizens and by the law-enforcement authorities. The Special Representative is obliged to reiterate the recommendation that an official gazette should be instituted, that it be published regularly and frequently, and that it be the medium for the publication of laws and other administrative measures which the public have a right to know about.

E. Freedom of movement

39. The Special Rapporteur noted, both on the island of Bioko and in the mainland region of Rio Muni, the existence of military roadblocks which substantially limit the rights recognized in article 12 of the International Covenant on Civil and Political Rights. According to the Government, the purpose of these roadblocks is to conduct customs examinations since effective control of the frontiers is impossible owing to the limited human and financial resources available. At 6.15 p.m. on 16 November, the Special Representative was detained at the roadblock at kilometre 10 on the road from Bata to Niefang for having taken a photograph of the vehicles awaiting inspection. The military chief reprimanded him and warned him that, if he had not been a representative of the United Nations, he would have been arrested for taking photographs of military installations. Governmental authorities had, however, assured him that the roadblocks were not of a military character.

40. As has been repeatedly mentioned in the reports of the preceding Special Rapporteur and Independent Expert, these roadblocks not only constitute a serious violation of the right to freedom of movement within the country, but are a source of abuses by the military officials assigned to them. Cases of arbitrary detention, unwarranted confiscation and ill-treatment are daily occurrences at these roadblocks.

41. Various forms of internal exile are imposed by local executive authorities against representatives of the opposition. The Special Representative received credible testimony and documentation relating to this practice. Thanks to the presence of roadblocks, the persons concerned are not allowed to leave or return to their village of origin.

42. Another serious measure limiting the rights protected by article 12 of the Covenant is the exit visa requirement for persons leaving the country, which must be issued by the police

authorities. The Special Representative believes that this visa may be used to impede free movement. There have been cases in which the visa has been refused or issued late to opposition leaders.

F. Right to physical freedom and integrity of the person, and conditions in detention centres

43. The Special Representative visited Malabo public prison (known as Black Beach) on two occasions, and also and the public prison in the city of Bata (on the mainland). In addition, he visited the police detention centre in Malabo once and the police jail in Bata on two occasions. In the town of Añisok he visited the police detention centre, where there were no prisoners.

44. Authorization to enter the area surrounding Malibo prison had to be issued by the Deputy Minister for National Security, the reason given being that it is situated in a presidential district. In addition, the prison and its surroundings are under the authority of military personnel. This is also the case with Bata prison, even though it is not in a presidential district.

45. In the course of his visit to Malabo prison the Special Representative found conditions to be very unsatisfactory. The list he was given contained the names of 98 prisoners. Officially he was told that there were 61 beds, and it was added that some prisoners slept on mattresses which they rolled up and kept during the day and used at night, and that in other cases some prisoners shared beds. There is a flagrant lack of other facilities such as an infirmary, workshops, and study and work areas.

46. At Malabo prison the Special Representative found eight prisoners each shut in cells measuring approximately 1.50 metres by 70 centimetres. Another prisoner, making a total of nine, had been subjected to the same incommunicado regime but had been taken to hospital in a serious condition a few days before. These prisoners had been sentenced to death following the events of 21 January 1998, but this was commuted to life imprisonment by a decision of the President of the Republic. The authorities explained to the Special Representative that they had been confined in small cells as punishment for trying to escape: the punishment consisted in shutting them up in the cells from 3 p.m. until the following morning, when they were allowed out in the sun with the other prisoners. However, the Special Representative observed that: (a) these nine prisoners were being held permanently in these cells and that they had not made any attempt to escape or perpetrated any other kind of incident; (b) they stayed in those cells the whole time and were not allowed to see or be in the sun; (c) they had no access to medical services and were all suffering serious illnesses as a result of their conditions of detention or following torture during their pre-trial detention at the police station; (d) their diet was totally inadequate, and (e) they had no contact with their relatives, whom they were unable to see and about whom they had heard nothing ever since they were sent to Malabo prison in May 1998. The state of health of all the prisoners was patently deplorable. To the Special Representative it was obvious, as each of them stated, that instead of benefiting from commutation of the death penalty, they were being subjected to a slow, tortuous death.

47. Shortly before the visit to Malabo prison a prisoner had died: he was Digno Sepa Tobache, aged 23, who had died on 19 October 1999. According to credible witnesses, his death occurred as a result of blows and excessive ill-treatment during his imprisonment.

48. On the same day as the Special Representative learned of the conditions of detention of the nine incommunicado prisoners, he requested the Prime Minister, the Minister of Justice, and the Minister for Foreign Affairs and Cooperation to put an end to that totally unacceptable situation. These eminent persons expressed their surprise at the situation and undertook to remedy it. The Special Representative made the same request seven days later to the President of the Republic, who agreed with him that the treatment being meted out to these prisoners was inhuman, and asked the Minister of Justice (who was also present) to remedy that irregular situation as soon as possible. Two days later the Special Representative made a second visit to Malabo prison and found that the same prisoners were still shut in their cells. On 26 November, after the Special Representative had left the country, the Minister of Justice informed him by telephone that he had terminated the incommunicado imprisonment of these prisoners.

49. In the most recent report submitted to the Commission by the previous Special Rapporteur, information had already been given about the reprehensible treatment being received by these prisoners (E/CN.4/1999/41, para. 39). The Independent Expert had also found prisoners suffering the same cruel and inhuman conditions of detention (E/CN.4/1992/51, paras. 70 and 108). The Special Representative accordingly urges the authorities of Equatorial Guinea to terminate this practice, which appears to be systematic.

50. The Special Representative also received the complaint of Mrs. Aniceta Noacho Elako. On 5 June 1999, when taking food to her brother in Malabo prison, she was beaten up by soldiers in the presence of her brother, who had been specifically summoned to witness the incident. He was serving a prison sentence as a result of the events of 21 January 1998.

51. The Special Representative visited Malabo police station, where conditions of detention are also deplorable. There is nowhere for the detainees to go to the toilet or wash their bodies. When persons are detained for more than 72 hours, which frequently happens, conditions of hygiene deteriorate even further, which may have serious consequences for their health.

52. In Bata prison, the Special Representative visited all parts of the building and, except for a padlocked room which he was told belonged to a prisoner working outside, he was able to have access to all facilities. Conditions are very poor, and the governor's report contained a written reference to the very decrepit state of the building. Like Malabo prison, this prison has no infirmary or work or study areas for prisoners. Prisoners unanimously complained about the lack of access to the toilet area, which was separated by a grille that is not always opened. This obliges prisoners to relieve themselves in the same place as where they eat. This situation can and must be remedied immediately, as the Special Representative told the prisoner governor. The latter explained that the grille is closed by the soldiers who guard the prison, consequently, a decision to remove the padlock and keep the grille open would have to be taken jointly with the military authorities.

53. During his visits to the police stations in Malabo and Bata, the Special Representative was informed of the 72 hour time limit, set by law, on police custody without intervention by the judicial authorities. He was told that, after that period, detainees must be released or placed at the disposal of the court in order that, in the latter case, the judge might decide what action to take. The Special Representative nevertheless noted that in many cases the time limit was not

complied with and even greatly exceeded. The authorities acknowledged that time limits are frequently extended and that they do not have suitable quarters in which to hold pre-trial detainees.

54. The Special Representative made his first visit to Bata police station on 15 November, when he asked to see Mr. Juan Obiang Late and Mr. Teodoro Abeso Nguema. According to their relatives, these men had been arrested on 9 and 11 November 1999 respectively but were not on the list of detainees shown to the Special Representative. The list for Sunday, 14 November, did contain their names, and the reason for arrest was given as "by order of higher authority". The senior officers at the police station were unable to say what had become of those men, but they did not rule out the possibility that, if they were not listed, it was because they had already been released. The Special Representative informed the officers that it was necessary to keep a precise record of the admission and release of any person whose freedom was in any way involved. After the visit, the Special Representative contacted these men's relatives, who told him that they were still being held at Bata police station. When he heard this, the Special Representative decided to return to the police station, unannounced, on Tuesday, 16 November. With the authorization of the police superintendent, and together with him, he again visited the detention quarters within the police station. There he was able to talk to Teodoro Abeso Nguema, who told him that he and his companion Juan Obiang Late had been taken from the police station the previous day to prevent the Special Representative from talking to them. On that second occasion, the Special Representative was unable to speak to Juan Obiang Late, who, he was told, had been taken from the police station to do some work for a senior official. The report for 16 November again showed the names of these men, and the reason for their arrest was again given as "by order of higher authority".

55. The case described shows flagrant irregularities practised by the security agencies in violation of the right to freedom. The men in question had been detained for over 72 hours without any intervention by a judicial authority. The detention itself was arbitrary in that it had not been ordered by a judicial authority and was not the result of an arrest flagrante delicto. The so-called "order of higher authority" is a form of arbitrary detention by State officials. According to the detainees, the reason for their arrest was the fact that they had printed out from the Internet an article published in the Spanish newspaper El Mundo about the health of the President of Equatorial Guinea; such action cannot reasonably be regarded as constituting an offence.

56. The Special Representative invited the Government to investigate and sanction conduct such as that described, which was designed to obstruct the mission he had been authorized to carry out. He also invited the Government to correct it and ensure that it did not recur since it had not been an unusual occurrence; previous Special Rapporteurs and the Independent Expert had experienced similar incidents, as emerged, for example, from the report of the previous Special Rapporteur (E/CN.4/1999/41, para. 37).

57. The dowry is a traditional ancestral practice in Equatorial Guinea in which the husband's family gives goods to the wife's family as proof of the serious nature of the commitment. If the marriage bond is dissolved, the dowry has to be returned, on the basis of a decision by the traditional courts, which determine the legal right and the amount. If it remains unpaid, the woman, or her father or her brother, as the competent legal authority may decide, may end up in

prison. The Special Representative was informed by the magistrate in Niefang that someone there had been imprisoned for failing to return the dowry. In this regard, the Special Representative wishes to draw attention to article 11 of the International Covenant on Civil and Political Rights, which states that "No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation". The authorities of Equatorial Guinea should publicize this provision and ensure its observance since it in no way detracts from compliance with obligations stemming from domestic laws or the applicable traditional law (see also para. 89).

58. The Special Representative was prevented from visiting the Gendarmeria Nacional in Bata. Despite four days of repeated asking, the officials coordinating his visit were unable to obtain permission to visit this institution, which also houses prisoners. Such information as was obtained indicate that it is in a very bad state.

59. The Special Representative wishes to make some detailed remarks on prisons, in accordance with the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988) and the Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111 of 14 December 1990), and the recommendations formulated by his predecessors, Mr. Volio and Mr. Artucio.

(a) Persons deprived of liberty may only be restricted in the exercise and enjoyment of the rights which have been legally affected and by means of the restrictions stemming from the fact of imprisonment;

(b) The State has the obligation to provide all persons deprived of liberty in prisons with adequate food;

(c) Supervision of prisons, and also internal order and discipline, must be ensured by a professional civilian body specially trained for the purpose;

(d) Any corrective measure to ensure or restore order and discipline must be adopted through an adversarial procedure which ensures the right of defence of the accused and is decided by an independent and impartial authority;

(e) The State has the obligation to provide medical and health assistance to persons deprived of liberty in prisons. Any cruel, inhuman or degrading treatment of such persons is prohibited. Any person who practises such treatment must be investigated, tried and punished by the competent judicial authorities;

(f) In prisons men must be separated from women and convicted prisoners from untried prisoners;

(g) When persons deprived of liberty do work or perform other duties, they must be paid in accordance with local rates, and in no circumstances may they be required to perform demeaning tasks. Generally speaking, they may not work without pay, or for the benefit of the authorities or their relatives;

(h) In every place where persons are imprisoned a strict and careful register must be kept of persons entering and leaving the facility; in the latter case, it must be clearly and precisely indicated whether they have been released or where they have been transferred to.

G. Right to due process (and independence of the judiciary and separation of powers)

60. The existence of an independent judiciary is necessary to ensure observance of the fundamental rights of individuals. In Equatorial Guinea, the Constitution (or Fundamental Law) asserts the independence of the judiciary vis-à-vis the executive and legislature (art. 83). The body of law applicable to the judiciary, in addition to the Constitution, is contained in the Judicial Organization Act, promulgated in 1984 and amended in 1986 and 1988, which lays down the structure of the judicial service, and Decree No. 87 of 22 July 1987 which establishes a list of incompatibilities in respect of the personnel qualified to administer justice.

61. However, as a UNDP study notes, practice departs considerably from the legal norm, which means that judicial independence is seriously restricted (United Nations, "Situation of the administration of justice in Equatorial Guinea", prepared by Alejandro E. Alvarez, August 1998, p. 7). The previous Special Rapporteur warned in the first report he submitted to the Commission on Human Rights that "the independence of the Judiciary is not guaranteed and (...) the rights of the defence (...) are not respected" (E/CN.4/1994/56, para. 54). The Independent Expert had said much the same in one of his last reports to the Commission: "There is no separation of powers. The Supreme Court of Justice (...) [is a] servile instrument(s) of the President (...). In other words, besides being Head of State and President of the Democratic Party of Equatorial Guinea, (...) the President of the Republic is also the leading member of the judiciary and responsible for appointing and dismissing magistrates and judges" (E/CN.4/1992/51, para. 103).

62. The independence of the judiciary is compromised by insecure occupancy of posts and the absence of a system of selection based on objective criteria. Although the Constitution provides that magistrates of the Supreme Court of Justice are to be appointed by the President of the Republic for a period of five years (art. 91), the Judicial Organization Act adds that these appointments are free and revocable, thus endowing the President with excessive powers which call judicial independence in question.

63. Some legal norms permit undue interference by the Ministry of Justice with the judiciary. Decree No. 58 of 9 April 1988 grants this branch of the executive powers of supervision of the courts and of judicial appointments, which jeopardize the separation of powers. Recently, by Presidential Decree No. 76/1999, a commission was established, under the chairmanship of the Minister of Justice, to deal with corruption in the judiciary. It is to be feared that this step will give the executive more control over the judiciary.

64. One consequence of the primacy of the executive over the judiciary is the existence of a "de facto system of justice". Some executive authorities, primarily related to security bodies and military institutions, are above the law and remain exempt from any judicial control of their activities. This report has already noted the involvement of military units in prison administration and certain practices affecting personal freedom (such as the extra-legal powers attributed to "higher authority").

65. These practices also extend to the failure to implement judicial decisions, as in the case of a senior official, Francisco Mba Mendam, Government Delegate of Micomeseng district, who was sentenced to 30 years' rigorous imprisonment for the murder of a former ambassador of Equatorial Guinea to France. Instead of being sent to Bata prison, as he should have been, he is allegedly living as a guest in the home of the Deputy Inspector-General.

66. The Special Representative was informed of the case of the lawyer José Olo Obono (who defended several of those charged and subsequently sentenced for the events of 21 January 1998), on 21 July 1998 he was arrested and charged with injurious behaviour by the prosecutor's office. During the oral proceedings, the prosecutor withdrew the charge for lack of documentary evidence. Although no charge was preferred by the Attorney-General, the Court of Appeal for the island region sentenced him for the offence of injurious behaviour to five months and one day of imprisonment and a fine, as a result he was in prison until mid-January 1999.

67. For the court which sentenced him, one aspect of his offence was that, having acted as counsel for Mr. Martin Puye (one of the accused in connection with the events of 21 January 1998) in the military court, "he has nothing to do with any problems that may arise in connection with this person and are not of a strictly professional nature, in the case in question, as emerges from the proven facts, when the relatives of his client called on him, following Mr. Puye's death, about the problem of the return of the body, the lawyer currently charged should have refused to see them, since the problem in question, in accordance with professional ethics, is not within his remit" (judgement of 11 September 1998).

68. The case of this lawyer illustrates the relationship of dependence between the judiciary and the executive, since the latter used the courts to attack a private individual who had criticized its activities in the Spanish media. In addition to the lack of consistency in the description of the facts comprising his alleged offence, there is a complete lack of independence and a desire to make an example of Mr. Olo and teach all the Government's potential critics a lesson. As the previous Special Rapporteur observed, the Basic Principles on the Role of Lawyers were patently ignored in this case, particularly principles 16, 17 and 23 (E/CN.4/1999/41, para. 36).

69. Military judges are empowered to arrest, investigate and try civilians. Many of the executive's senior officials regard such powers as normal and do not see them as contrary to the principle of the separation of powers proper to a State subject to the rule of law. They argue that it is military justice that should institute proceedings for acts of violence, even when committed by civilians, such as the attack on military facilities, or the use of military weapons or uniforms. Military justice, however, does not limit itself to such cases, in which its impartiality would in any case be dubious since it would simultaneously be judge and party. Military judges pass sentence for offences such as insulting the Head of State, and also conduct interrogations and investigations based on vague charges which do not refer in detail to a specific offence.

70. Mr. Plácido Mikó, Secretary-General of the Convergencia para la Democracia Social (CPDS) party, was arrested in Bata on 10 September 1999. He was subsequently released but, according to information the Special Representative received from the Minister of the Interior, his case is before a military examining court. His arrest has not been properly explained, although various motives have been adduced to justify it, none of them seems either well-founded or credible.

71. Mr. Mikó's case highlights the improper jurisdiction of the military courts in Equatorial Guinea. In the course of the last 20 years, the Independent Expert and the Special Rapporteurs have all recommended that it should be restricted to offences of a military nature committed by serving military personnel. The Special Representative discussed this with several senior officials and the President of the Republic. He urges the Government to comply with this recommendation and put an end as soon as possible to the improper extension of military jurisdiction to civilians.

III. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. General economic situation

72. Equatorial Guinea's oil exports have expanded considerably since 1996. Although the Mobil oil company admits to a current production rate of around 90,000 barrels a day, others familiar with the facts consider that it may exceed 100,000 barrels a day and could increase with the recent discovery of oilfields on the mainland. Progress in this important sector can be seen in the upswing in the gross national product (GNP), which grew by 71 per cent in 1997 and 22 per cent in 1998. According to the indices supplied by UNDP in its latest Human Development Report, Equatorial Guinea's per capita GNP rose from US$ 380 in 1995 to US$ 944 in 1997, when oil extraction was only beginning. International Monetary Fund (IMF) forecasts are encouraging; real GNP growth of approximately 18 per cent is anticipated in 1999, reflecting increased oil production and a recovery in the timber sector, which underwent a period of crisis in 1998.

73. According to UNDP, Equatorial Guinea ranks 131 in the world Human Development Index, which means that it has made up three places over the past year and gone from the group of countries with low human development to the medium human development group. However, enjoyment of economic, social and cultural rights is still seriously limited to a minority of the population.

74. In 1999, an IMF mission looked at developments in the economic and financial situation in recent years and prospects for the year 2000. In its memorandum on the mission, IMF warned the authorities of the need for greater transparency in handling public sector resources (particularly from oil exports) and in incorporating them into the State budget. IMF suggested that the Government's macroeconomic strategy should be based on building up reserve funds and their prudent use in the medium term, to ensure the development of human resources and promote productive investment, the diversification of the economy and the creation of bases for sustained growth in sectors other than oil and timber, and also improve the living conditions of the population. The Special Representative supports this recommendation, which would enable the people of Equatorial Guinea as a whole to enjoy the country's wealth. He welcomes the

recent Decree No. 74 of 5 August 1999 establishing a "Fund for Future Generations", and hopes that it can be implemented as soon as possible. If it were set up with 0.5 per cent of present oil revenues, it would make for continuity in the development of the country's economic structure.

75. In this context, a national conference last November brought the Government and sectors of civil society together to evaluate the recommendations formulated at the first National Economic Conference of 1997. Representatives of the Government consider that the evaluation was a success since the Government's economic policy had made it possible to carry out almost all the recommendations adopted in 1997. This optimism contrasts with the lack of official information about oil revenues, their incorporation into the national budget and how they were allocated within it.

B. Right to health

76. Data supplied by the United Nations and other agencies working in Equatorial Guinea gave a less than encouraging picture of the health-care system and the effective enjoyment of this right by the population. The previous Minister of Health and current President of Parliament, Mr. Salomón Nguema Owono, shared this opinion.

77. The Human Development Report 1999, published by UNDP, gives an infant mortality rate of 109 per 1,000 live births, and 172 per 1,000 for children under five. These are some of the highest rates for the entire sub-Saharan region and higher than in countries with a lower Human Development Index. According to government sources, inadequate budget allocations for the health sector, coupled with the persistent devastation prior to 1979, are affecting the recovery of the sector.

78. According to data supplied by the President of the House of Representatives of the People, the commonest disease continues to be malaria, which is endemic throughout the country but takes on more malignant forms on the island of Bioko. The frequency of cases of typhoid fever is also alarming. The incidents of AIDS is still limited, with 3,000 persons seropositive and 40 suffering from the disease, of whom 7 have died. The results of a survey by the Ministry show that 60 per cent of those affected appear to be women. According to the WHO representative in Equatorial Guinea, the AIDS phenomenon is much more serious than is officially admitted, and it is feared that in less than seven years the situation could become really disastrous unless immediate attempts are made to remedy it.

79. The Special Representative was able to visit the public hospital in Bata, although he was unable to interview the director and hear his views on problems and the steps taken to solve them. He was able to observe the dreadful conditions in which the health system operates and the dilapidated state of the buildings.

80. Both United Nations representatives and the persons in charge of bilateral cooperation informed the Special Representative of the blocking of many health sector projects because of the Ministry's failure to act. funds earmarked for AIDS awareness campaigns and for reinforcing the health system, for example, thus remain unused. The Special Representative was

informed that in October 1999 the non-governmental organization Médecins sans Frontières had terminated its technical assistance projects owing to the lack of cooperation on the part of the authorities.

C. Right to work

81. The Special Representative wishes to draw attention to the restrictions affecting the right to work. In addition to the warning already given by the previous Special Rapporteur on the "major lack of sources of work and employment, and very high rates of unemployment and underemployment" (E/CN.4/1997/54, para.74), there are alarming complaints that, both in the Government and in private enterprise, means are being used to prevent persons who are not faithful supporters of the governing political party from obtaining jobs.

82. In the Government, an official whose political opinions diverge from the official line is simply removed from his post. In large private firms, especially the oil companies, labour is normally recruited through intermediary agencies under the thumb of officials of the governing party. In addition to collecting a sizeable commission from the worker, they require him to show the governing party membership card before he can be employed by the firm. When an employee is hired directly by private employers or entrepreneurs, the governing party puts pressure on them - sometimes unsuccessfully - to employ only its accredited activists.

83. It was also reported to the Special Representative that in recent years cuts in government posts carried out in the context of the IMF structural adjustment recommendations were discriminatory and mainly affected opposition activitists.

84. There is no recognized trade union organization in Equatorial Guinea. The Government says that it is on the point of promulgating a law governing exercise of the right of trade union association, but there is no evidence of any activity in this connection (see para. 31).

D. Right to education

85. It is a matter for concern that only 1.8 per cent of Equatorial Guinea's income is earmarked for education (UNDP, 1999), less than the average percentage in developing countries. As already said in previous reports, school drop-out rates among girls remain disturbing, since this means that there is no possibility of rectifying the serious imbalance in educational levels between the sexes, as described in the next section of this report on the status of women. The Special Representative received reports of frequent instances of corruption among teachers in schools, such as the buying and selling of marks or the bartering of marks for sexual favours, representing problems which seriously affect education in Equatorial Guinea.

86. Generally speaking, the characteristics of the education system are: (a) late entry, since 45 per cent of primary pupils are above average age for admission to this level; (b) repetition of classes; (c) high drop-out rates, more among girls than boys (see para. 90), increasing with age; (d) inadequate quality of teachers; and (e) low fiscal expenditure per pupil, accounting for only 5.6 per cent of the annual expenditure of the State budget.

E. Status of women

87. According to the Human Development Report 1999, published by UNDP, the GNP produced by women was 1,066 (purchasing power parity in United States dollars), while that produced by men was 2,589. According to data from the same report, female illiteracy is 29.9 per cent while male illiteracy is 9.5 per cent. Although the number of females in school has increased in recent years, according to government data, only 12 per cent of females reach the secondary level compared with 24.4 per cent of men. The number of girls entering primary school is almost the same as the number of boys, but moving up the levels, the proportion of girls in secondary and university education steadily diminishes.

88. As to jobs held, despite the positive trends of recent years, women are still very thin on the ground, accounting for 12.6 per cent in management, 29.6 per cent in the scientific professions and only 2 per cent of owners of businesses.

89. During his visit, the Special Representative discussed the problem of women imprisoned for non-payment of a dowry (see para. 57) with a wide range of people. The Niefang district judge told him that this is still common and that on average 40 to 50 cases are recorded annually in his district. It is a matter for concern that prison for non-payment of dowry is not considered to be a real violation of human rights. The fact that attempts are being made to arrest the fathers or brothers who normally receive the dowry rather than the wife, is offered as a mitigating factor. The Special Representative reiterates that this is a serious matter, whether it is women or men who are affected.

90. A recent report brought out by the Ministry of Education, the Ministry for Social Affairs and the Status of Women, and UNICEF on the occasion of a campaign for the education of girls, states that only 9 per cent of girls finish fifth grade in primary school. Female drop-out from school has been growing as the years goes by. The main reasons are the persistence of women's inferior role and discrimination within the family, to the point of considering daughters to be a source of income owing to the dowry tradition.

91. The Minister for Social Affairs and the Status of Women expressed her concern at the situation of inferiority in which women find themselves because of their lack of education. She noted that some credit programmes, targeted at women, had run into serious difficulties because of women's lack of know-how and experience of finance and accounting in resource management. She explained that her Ministry was preparing a programme, with support from UNICEF, on the revision of the law so as to do away with discriminatory laws against women. She admitted that there were customs that impeded the recognition and enjoyment of certain rights for women and said that she opposed the imprisonment of women, or indeed any person for failure to pay a dowry.

F. Rights of girls and boys

92. Enjoyment of the rights of girls and boys is precarious, particularly because of the health situation and the high rate of infant mortality, as has already been said. There is also a high rate of child labour, as emerges from a 1997 study by the Ministry of Education, 84 per cent of the 336 girls and boys interviewed admitted that they engaged in some kind of work.

93. The obligation to ensure that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so" (Convention on the Rights of the Child, art. 37 (c)) is not met. The Special Representative met two children under 18 detained in Bata police station. Although he asked the authorities to separate them from the adults, two days later he again found them with adults in the same police station, the authorities showing no inclination to transfer them to more appropriate quarters.

94. The Special Representative has appreciated the many activities that the authorities, in collaboration with the UNICEF office, have undertaken to make the population aware of the rights of girls and boys, including the celebration of the tenth anniversary of the Convention on the Rights of the Child. An effective programme to improve their situation should be a matter of priority, bearing in mind that under-15s account for 44 per cent of the population.

IV. TECHNICAL ASSISTANCE TO EQUATORIAL GUINEA IN THE FIELD OF HUMAN RIGHTS

95. The Commission, in its resolution 1999/19, requested the Special Representative to "monitor the situation of human rights in Equatorial Guinea" (para. 10) and to include in his/her report recommendations on the implementation of the programme of technical assistance, with particular emphasis on human rights, the administration of justice and the legislative reforms, and the strengthening of the capacity of non-governmental organizations, as well as other groups of civil society (para. 11).

96. The Commission has been following the human rights situation in Equatorial Guinea with great concern for over 21 years, as mentioned in the introduction to this report. In the past 20 years, the reports of the rapporteurs and experts appointed by the Commission have all noted the same problems affecting the human rights situation in Equatorial Guinea year after year, and have made the same recommendations to solve them.

97. In the last 20 years, successive rapporteurs and experts have also agreed to recommend and organize technical assistance activities in order to strengthen the capacity of the national authorities and the local population to protect human rights and prevent and sanction any violations of them. The Special Rapporteur proposed a first plan of action in his 1980 report (E/CN.4/1439 and Add.1), which was endorsed by the Commission in March 1982 in its resolution 1982/34. Under the plan, two experts provided assistance in revising the draft for the new constitution in July 1982. Two more experts went to the country in January 1986 to assist in the drafting of various codes, and made detailed recommendations for progress in that area. In 1990, the Centre for Human Rights, in cooperation with the Government of Spain, provided the advisory services of another two consultants to help in preparing a civil code and a penal code. In 1991, the Independent Expert called the 1980 plan of action "defunct", as he believed that "announcements and pronouncements must give way to the more important business of effective measures to institute a representative, democratic regime", and consequently proposed a new "emergency plan of action" (E/CN.4/1992/51, paras. 124 and 125).

98. In 1994, the Office of the High Commissioner for Human Rights drew up a plan based on the recommendations made by the new Special Rapporteur in his first report to the Commission (E/CN.4/1994/56). Under this plan, advisory services were provided between March 1995 and

July 1996 to deal with training in the treatment of prisoners, rules on the independence and impartiality of the judiciary, human rights and civil liberties, and women's rights.

99. The technical assistance given to Equatorial Guinea in the field of human rights has been evaluated several times. The last time this was done was in February 1997, when a two-member assessment mission of the Office of the High Commissioner concluded that actual progress in the protection of human rights in Equatorial Guinea would be minimal "as long as the highest government and judicial authorities show no desire to put an end to the impunity enjoyed by State officials who are the actual perpetrators and the instigators of human rights violations" (E/CN.4/1996/67, para. 55).

100. As a result of the monitoring by the Commission on Human Rights of the situation in Equatorial Guinea and the technical assistance it has provided, and also the recommendations made by the rapporteurs and experts to improve the situation, some progress has been achieved in the last 20 years, including, but not limited to:

(a) The legalization of political parties other than the governing one, which were previously banned, and the conclusion of the National Pact on Democratization and the implementation of various electoral processes, all of which, despite the undeniable limitations within which they have taken place, are elements that can contribute to progress in the democratization of institutions;

(b) The amnesty laws, the release of political prisoners thanks to various clemency measures and the return of political leaders from exile;

(c) The ratification of international human rights treaties such as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, even though the reporting obligation has not been duly complied with;

(d) The establishment of the Ministry for Social Affairs and the Status of Women;

(e) The provision of beds in Malabo prison, which formerly had none at all.

101. However, most of the repeated recommendations made during the last 20 years with regard to Equatorial Guinea have yet to be acted upon. The former Special Rapporteur pointed out, in the conclusions of the last report he submitted to the Commission (E/CN.4/1999/41), that he had noted "a disturbing lack of progress towards democratization" (para. 60 (a)) and that "it does not appear that the independence of the judiciary has been strengthened, or that the functional deficiencies noted in the Special Rapporteur's previous report ... have been remedied" (para. 61). The present Special Representative, appointed by the Commission in 1999, found that in some important areas the situation described by his predecessors had not changed, and therefore their recommendations were still applicable. A detailed list of those areas (concerning violations such as arbitrary detention, torture, censorship, judicial bias, the concentration of powers, political persecution, discrimination against women and extreme poverty) will be given in chapter VI, "Recommendations", of this report.

102. Moreover, the Special Representative noted the emergence of a new cause for concern: anyone who is not a member of the governing party is finding it increasingly difficult to find work or a job in either the public or the private sectors.

103. The delay, unwillingness and slowness in putting into effect even the most easily implemented recommendations on substantive issues in Equatorial Guinea is plain to see. In 1989, the Government declared that it hoped to adopt and ratify the Convention against Torture and the Convention on the Elimination of Racial Discrimination in early 1990 (E/CN.4/1990/42, para. 17). Ten years later, during the visit by the present Special Representative in 1999, the Government said it had not yet been able to approve those conventions because it needed to study the reservations made by some States at the time of ratification, but had not been able to find them in Spanish. Similar excuses have been given to justify non-compliance with the repeated recommendation regularly and periodically to publish laws in an official gazette. Military courts continue to try civilians, roadblocks set up by the military continue seriously to hamper freedom of movement, people are still frequently arrested without a warrant, and torture or ill-treatment in captivity are still commonplace. Recommendations of this sort, and many other similar ones, do not require technical assistance to be put into practice. Other recommendations, in whose implementation assistance would be required (and has been provided repeatedly during the last 20 years), have still not been acted upon. They include the codification of the main substantive and procedural laws: the country continues to be governed by the civil and penal codes in force in Spain in 1968, when it gained its independence.

104. The recommendations made in the course of the last 20 years to improve the human rights situation in Equatorial Guinea need to be implemented as soon as possible if there is a real desire to change the present pattern of persistent, widespread and systematic violations. With a view to achieving the early implementation of the recommendations, it would be useful if the authorities of Equatorial Guinea gave an undertaking to the Commission on Human Rights that it would adopt a national human rights action plan, in accordance with the recommendations of the Programme of Action (para. 71) of the 1993 World Conference on Human Rights, held in Vienna, and if this plan was supported and monitored by the Commission.

105. In an interview granted to the Special Representative, the Head of State, President Obiang Nguema Mbosogo, said that the preparation of a national human rights action plan or programme was a desirable objective: he suggested that the programme might last one year, at the end of which, following the step-by-step monitoring of its implementation, it would be clear whether the political will existed to make progress in human rights matters. In the Special Representative's opinion, the starting point for the preparation of that plan should be the complete set of recommendations made by the rapporteurs and experts appointed by the Commission during the last 20 years, and which are repeated once again in this report. The plan could consist of ranking the recommendations according to their priority and feasibility, giving target dates for the implementation of each, or for the identification and removal of specific obstacles currently preventing any of the recommendations from being put into practice.

106. Once the commitment has been made to prepare the above-mentioned national plan, the United Nations can provide appropriate technical assistance for its development, on the basis of the principles laid down in the Vienna Declaration and Programme of Action. The principles concerned are those of efficiency and transparency in technical cooperation programmes

(para. 34), the protection and promotion of human rights as a priority objective of international cooperation (para. 4 and paras. 66-77), the coordination of promotion and protection activities within the United Nations system (para. 4 and para. 1), and the importance of complementing technical assistance services with human rights monitoring services (para. 34 and paras. 83-91).

107. In accordance with the above, technical assistance to Equatorial Guinea in the field of human rights should be organized by the Commission on Human Rights and carried out by its Special Representative, rapporteurs and thematic working groups, the Office of the High Commissioner for Human Rights and the relevant bodies of the United Nations system. Their activities under the above-mentioned plan, which would be monitored by the Commission, would need to be carefully coordinated. Thus, for example, to implement the recommendation on strengthening the independence of the judiciary, it would be very useful if the Government of Equatorial Guinea were to invite the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers to visit the country to identify the practical difficulties and ways to strengthen that independence and to make the appropriate recommendations in a report to the Commission. He could take advantage of being in the country to publicize the universally recognized basic principles in that area and discuss them with judicial officials and people at large. A similar invitation could be extended to the Special Rapporteur on the question of torture, whose visit to the country would be of undeniable value in making definite progress towards the elimination of this practice. Similar considerations would apply to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

108. Likewise, in order to strengthen domestic mechanisms for the protection of human rights, such as the National Human Rights Commission of Equatorial Guinea, it would be a big step in the right direction if the Office of the High Commissioner, together with the Special Representative, reviewed the organization and work of the national commission to ensure it conformed to the principles relating to the status of national institutions for the promotion and protection of human rights, or "Paris Principles" (General Assembly resolution 48/134 of 20 December 1993).

109. In the same way, the National Programme on Governability, which UNDP has been discussing with the Government of Equatorial Guinea, should be coordinated with the monitoring and technical assistance activities relating to this country that are being carried out on behalf of the Commission on Human Rights. In fact, one of the components of the Programme is the subject of human rights (subprogramme IV). This component should not be separated from the above-mentioned human rights programme, which should be based on the Commission's recommendations for Equatorial Guinea. For the sake of the efficiency of the United Nations system, the monitoring of that component should be carried out in close cooperation with the Commission and its Special Representative, which in turn should lead to better results from the National Programme on Governability.

110. It would also be desirable for cooperation activities in the field of human rights being carried out in conjunction with Equatorial Guinea by States or groups of States Members of the United Nations to be coordinated with the work in the same field being done through the Commission on Human Rights. Without detriment to its independent or discretionary nature, it is clear that such cooperation could be more useful if the international community's efforts in

this area were focused on the adoption and implementation of a human rights plan based on the recommendations of the rapporteurs and experts appointed by the Commission during the last 20 years.

111. As clearly indicated by the Commission on Human Rights in its resolution 1999/19, the technical assistance provided to Equatorial Guinea should place "particular emphasis on ... the strengthening of the capacity of non-governmental organizations, as well as other groups of ... civil society" (para. 11). A similar idea was expressed by the World Conference on Human Rights (paras. 38 and 73) and reiterated by the General Assembly when it adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (resolution 53/144 of 9 December 1998).

112. It has repeatedly been suggested during the last 20 years that a staff member from the Office of the High Commissioner for Human Rights (formerly Centre for Human Rights) should be appointed to provide technical assistance in the field of human rights while living in Equatorial Guinea. Government spokespersons expressed the same wish to the Special Representative during his visit; it appears to be a reasonable initiative. However, it could be ineffective if it is not part of an overall cooperation strategy carefully designed to draw on the rich experience gained in the last 20 years of continuous technical assistance to the country in the field of human rights. This strategy should contain at least the following six elements:

(1) Immediate implementation of recommendations that do not require technical assistance;

(2) Proof of the Government's willingness to implement the remaining recommendations on the basis of the technical assistance it receives for that purpose;

(3) Preparation of a detailed programme, which the Government undertakes to implement, listing activities to be carried out in order to define the way in which each of the recommendations will be put into practice, and the time or deadline by which each one is expected to be fulfilled;

(4) The resident official should be authorized to provide the Commission on Human Rights and its Special Representative with technical support in monitoring the human rights situation, which requires an assurance that the official will be able to collect information on the subject without being harassed, and without his sources of information being harassed, by the authorities;

(5) The resident official should have the capacity to provide technical assistance to organizations from civil society; and

(6) All the above should be jointly coordinated by the Special Representative and the High Commissioner for Human Rights.

V. CONCLUSIONS

113. The human rights situation in Equatorial Guinea is grave, but can be improved if resolute action is taken by the international community in general and the Commission on Human Rights in particular.

114. The clearest evidence of the gravity of the human rights situation in Equatorial Guinea is the legal uncertainty with which each of its inhabitants has to live. At any moment they can be deprived of their liberty and held in inadequate detention centres, and even subjected to torture, by virtue of a simple "order from higher authority", with no warrant or legal grounds for that order, and they have no access to an effective judicial remedy to prevent or rectify that situation. The victims of these serious abuses are mostly political opponents or members of the Bubi ethnic group, but they are also often ordinary citizens. Ministers and senior State officials, as well as United Nations officials, are not free of the risk of falling victim to these violations.

115. The fragility of the rights to freedom and justice in Equatorial Guinea is a factor that worsens the already deplorable level of enjoyment of the economic, social and cultural rights of the majority of the population. It is estimated that 65 per cent of the inhabitants live in extreme poverty and that 80 per cent of national income is in the hands of 5 per cent of the population. The infant mortality rate is very high, being estimated at 109 deaths per 1,000 live births. Life expectancy is less than 50 years. The main cause of death is malaria, which in past decades was under control but today is rife and affects virtually the entire population. Other common causes of death are typhoid fever and bronchial disease. The level of education is poor and the employment situation is also unstable.

116. Despite the difficult socio-economic conditions, the population survives thanks to valuable family ties and community solidarity and easy access to food in the forest. There are no beggars in Equatorial Guinea and most, if not all, of the inhabitants have a roof over their heads.

117. Some of the uncertainty surrounding the enjoyment of economic, social, cultural, civil and political rights has its roots in the past. Equatorial Guinea was governed for many years, before and after independence, with a strong distrust and intolerance of political dissent or opposition.

118. The distrust that grew out of frustration with the experiments in political consensus was heightened by the 1999 parliamentary elections, in which the governing party won 75 of the 80 available seats. The parties that won the remaining seats believed the results were rigged and refused to take their places in Parliament; two opposition members of Parliament agreed to take their seats and were subsequently expelled from their party.

119. In addition to the 13 legally recognized opposition parties, who complain of persecution and harassment, there are 4 banned political parties or movements: the Progress Party, which was declared illegal; the Movement for the Self-Determination of the Island of Bioko (MAIB), whose existence is not acknowledged by some authorities; the Independent Democratic and Social Party (PIDS); and the Fuerza Demócrata Republicana (FDR) party, which has also been refused permission to operate legally.

120. Human rights organizations are not provided for in the law that regulates and monitors the existence of non-governmental organizations. No human rights organization has been granted legal personality, and there is no recognized trade union organization.

121. Another sign of intolerance of dissent is the nature of the punishment for any act considered prejudicial to high-ranking authorities. Criticizing a judicial decision, posting an announcement on the Internet about the health of the Head of State or making statements about Equatorial Guinea on Radio Exterior de España are sufficient grounds for arrest or imprisonment. Priests may also be harassed for speaking out of line in sermons.

122. Although a few, publications appear sporadically, there is no daily, weekly or fortnightly press. The usual news media are radio and television, which are run by the Government and to which the opposition has no access.

123. One common form of persecution, other than deprivation of liberty, is internal exile. There are some local authorities who, without following any judicial procedure and with no legal grounds for their action, use threats to force political opponents and their families to leave their home town or region or the place where they usually live.

124. Another form of persecution or discrimination for political reasons affects the right to work. Many of the activists or supporters of opposition parties have lost their jobs because they are not card-carrying members of the PDGE.

125. The discretionary nature of the military courts' jurisdiction over civilians is one of the main factors in exposing to abuse the right to personal liberty, and thus the rights to physical safety and justice.

126. The simultaneous exercise of judicial and military functions with regard to civilians is not unconnected to the general duties performed by the military and security forces within society in Equatorial Guinea. There is no clear distinction between the police and the military. There are roadblocks where, as a matter of course, the army has the power constantly to check the passage of civilians, who not only therefore find their right to freedom of movement restricted, but also find themselves exposed to abuse of their person and belongings by the security forces during the long waits at the barriers. Anyone arriving by plane in Bata, the biggest city on the mainland, has to be registered by the military at the airport. Prisons are located inside military compounds. For the people of Equatorial Guinea, the wide-ranging powers of the security forces, who act according to military precepts, are a fact of life.

127. Another reason for the tenuousness of the rule of law, in addition to the discretionary nature of the military's actions vis-à-vis the population, is that legal norms are not published in an appropriate manner. Apart from the anecdotal difficulties in overcoming this problem every year, there is clearly an urgent need to establish and guarantee official organs for the publication of legal texts, bills, judicial decisions and other State rules or acts.

128. Women's rights in Equatorial Guinea are particularly affected by traditional discrimination in education and equal access to work. In addition, deprivation of liberty for not returning the marriage dowry when a marriage ends exacerbates such discrimination, quite apart

from being a violation of the prohibition of imprisonment for civil debts. Furthermore, the boom in oil extraction raises fears about a worrying increase in prostitution in general, and child prostitution in particular.

129. The rights of children are particularly affected by the high infant mortality rates and by the lack of appropriate treatment for minors held in detention.

130. One determining factor in the persistence of systematic violations of human rights is impunity. The weakness of the judicial system and the lack of confidence in its impartiality mean that there are almost no formal complaints against perpetrators and, when they are made, they are unsuccessful. Nor is there the necessary confidence in the National Human Rights Commission of Equatorial Guinea, which receives complaints about some violations of labour rights or other subjects that are less serious than arbitrary detention, torture or violations of due process.

131. It would be possible for Equatorial Guinea to ensure, within a reasonably short period, the full realization of civil, political, economic, social and cultural rights for the 450,000 inhabitants living in its territory of 28,000 square kilometres. The multi-party experiment embarked upon in the 1990s, despite the obstacles that have prevented its successful development, forms a sound basis for affirming respect for dissent and consolidating pluralism. The 1993 National Pact, and the attempt to revive it in 1997, have shown the road that leads to that pluralism. All the political movements with whom the Special Rapporteur spoke agree on the road to follow. What is needed are safeguards and the willingness to travel that road together. That willingness is all the more necessary now that the country is entering a period when hopes of economic prosperity are high as a result of the increasing number of rich oil finds since the mid-1990s. Political agreement on the rational distribution of that prosperity is directly related to the realization of the right to development in Equatorial Guinea, satisfying the needs and basic rights of its population, and upholding the right to peace in its territory. The austere living conditions to which the great majority of its inhabitants are accustomed, together with the many valuable family and community ties, would not only facilitate that rational distribution but would also help make it effective in assuring minimum levels of food, housing, health, education and work.

132. The United Nations can play an important role in improving the situation by defining a framework for cooperation with the Government of Equatorial Guinea that will really lead to the promotion and protection of human rights as a priority objective, by simultaneously carrying out coordinated and complementary monitoring and technical assistance activities. This cooperation framework, details of which are given in chapter IV of this report (particularly in para. 112), should be based on a firm undertaking to put into effect in a reasonably short period the recommendations made repeatedly by the Special Rapporteurs and the Independent Expert on Equatorial Guinea appointed by the Commission on Human Rights since 1979.

VI. RECOMMENDATIONS

133. The Special Representative recommends that the Commission on Human Rights should urge the Government of Equatorial Guinea to take prompt and effective measures to put into effect the recommendations repeatedly made to it by this United Nations body during the

last 20 years. These measures can be grouped together under seven main headings, according to the rights or freedoms that Equatorial Guinea has yet to safeguard or observe adequately, as discussed in greater detail below: (a) civil rights, beginning with the right to physical liberty, (b) freedom of opinion and related rights, (c) the principle of legality, (d) the right to justice, (e) women's equality, (f) political rights, and (g) economic, social and cultural rights.

A. Civil rights

134. Firstly, the Special Representative believes it is imperative that the Government of Equatorial Guinea should take the necessary steps to ensure the immediate and full realization of the rights to physical liberty, freedom of movement or circulation, physical safety and human dignity of detainees. This means that, except when someone is caught in the act of committing an offence, arrests without a warrant, or on the basis of an "order of higher authority", must be prohibited, and any violations of this prohibition must be suitably punished so that the practice of arbitrary detention can be stopped. It also means that all State officials must be ordered to refrain from beating, ill-treating or torturing people who, for whatever reason, have been deprived of their liberty. It also requires the Government to order improvements in physical conditions in detention centres by building at least a private toilet and bathroom, with water for washing, in places where there is none (such as the police stations in Malabo and Bata and the prison in Bata), and improving existing facilities at Black Beach prison in Malabo, and also by providing enough beds for persons deprived of their liberty in these and other detention centres. Likewise, an order should be given to remove the military roadblocks on the country's roads and end the requirement for visas or authorization to leave national territory or move around within it, so that people's right to freedom of movement is assured.

B. Freedom of opinion

135. Secondly, the Special Representative recommends that the right to information and the freedoms of opinion and expression, the press and work should be respected through measures such as the decriminalization of behaviour considered offensive to the Head of State or other public authorities. There is also an urgent need to scrap the requirements that prevent news agencies and newspapers or periodicals expressing opinions from operating on a permanent daily basis, both in the print media and on radio and television. More specifically, any practice aimed at restricting eligibility for jobs for political or ideological reasons, for example by requiring job-seekers or those wishing to keep their jobs to produce a card showing their membership of the governing party, should be stopped and prohibited.

C. Principle of legality

136. Thirdly, the Special Representative recommends that the principle of legality should be upheld by systematically and periodically publishing legal norms. For that purpose, there is an urgent need for an official printing press to be set up in the executive, legislative and judicial branches. Moreover, arrangements should be made to make a clear separation between military bodies and the police authorities. Emphasis should be put on the recommendation that Equatorial Guinea should accede fully to the international instruments for the protection and promotion of human rights, and that it should fulfil its obligations under them, as an important contribution to the strengthening of the rule of law. In this respect, the Government needs to

decide on the formal ratification, as announced several years ago, of the Convention against Torture and the Convention on the Elimination of Racial Discrimination. It is also essential that Equatorial Guinea should fulfil its obligation to submit reports to the Human Rights Committee and the Committee on the Rights of the Child, which are several years late, and to the Committee on the Elimination of Discrimination against Women.

D. Right to justice

137. Fourthly, the Special Representative recommends that the right to justice should be safeguarded. This will entail, above all, making the judiciary truly independent and impartial through the adoption of legislative and administrative measures to achieve the required separation between the executive branch and the judicial branch, for example, by abolishing the Head of State's discretionary power to appoint and remove judicial officers. These officers also need to be given adequate professional training. All the above should be part of the overall aim of overcoming impunity by effectively pursuing the investigation, sentencing and punishment of human rights violators. Restricting the jurisdiction of military courts, which should not have competence in respect of civilians, is the necessary counterpart to the democratic strengthening of civil justice.

E. Equality of women

138. Fifthly, the Special Representative recommends that discrimination against women should be combated by taking measures such as ending the practice of imprisoning women for not returning their marriage dowry when they separate from their husbands. Special efforts should be devoted to promoting respect for the equality and dignity of women and to opposing domestic violence. Similarly, women's right to education needs to be boosted by taking action to correct the imbalance in relation to the education received by males. Likewise, specific and effective initiatives should be taken to boost women's right to work.

F. Political rights

139. Sixthly, the Special Representative recommends that political rights, democracy and pluralism should be safeguarded as necessary to strengthen the rule of law. This means, in practical terms, stepping up efforts to fulfil the commitments arising from the agreement signed by the Government and the political parties, known as the "Document on the Evaluation of the National Pact and Legislative Agreements, 1997". Moreover, it is essential to guarantee the right of association by recognizing non-governmental human rights organizations, and also trade unions and political parties, so that they can enjoy true freedom of action. The need to recognize the right to self-determination of the Bubi people deserves particular consideration, without that implying the segregation of the country; on the contrary, it should involve the integration and appropriate recognition of the rights of its various ethnic groups. That would strengthen rather than weaken the opportunities for growth and consolidation of the nation of Equatorial Guinea.

G. Economic, social and cultural rights

140. Seventhly, the Special Representative recommends that economic, social and cultural rights should be guaranteed, especially those that affect the 65 per cent of the population living

in extreme poverty. The new economic resources available to the country as a result of oil extraction should be used principally to satisfy basic needs in the areas of food, health, housing, education and work.

H. Other recommendations

141. Many of the above recommendations can be carried out directly by the Government of Equatorial Guinea, without need for international technical assistance. For example, the Government could immediately put a stop to arbitrary detention and torture, guarantee freedom of opinion and publish legal norms by issuing specific orders to that effect. The Special Representative recommends that the Commission should urge the Government to act decisively to that end given the desire shown by the authorities of Equatorial Guinea to make progress in the observance and protection of human rights. The Government should also be invited to ratify and comply with the international human rights conventions.

142. Once the Government has taken decisive steps to put into practice the recommendations made to it over the years, which depend only on its own decisions, as pointed out in the previous paragraph, the international community could complement those efforts through a technical assistance programme duly agreed upon with the Government. This programme should be supported initially by the mechanisms set up by the Commission on Human Rights for the country and for the most important issues facing it. Consequently, it would be very useful if the Government were to invite thematic rapporteurs, including the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the right to freedom of opinion and expression, to make formal visits to the country. It would also help if it reached an agreement with the International Committee of the Red Cross allowing the latter to act freely around the country.

143. On the basis of any specific recommendations made by the thematic rapporteurs if they visit the country, together with those already made by previous Special Rapporteurs or the Independent Expert and the present Special Representative, a technical assistance programme to be carried out by the Office of the High Commissioner for Human Rights could be drawn up. The contents and oversight of this programme should be closely followed by the Commission on Human Rights through its Special Representative.

144. The Commission on Human Rights should make a point of involving other United Nations bodies and agencies, donor countries and multinationals working in the country, so that the various efforts to cooperate with Equatorial Guinea in the field of human rights can be properly coordinated on the basis of the above-mentioned monitoring and technical assistance programme and activities, and so that all their efforts reinforce each other, without prejudice to the independence and integrity of each protagonist.

145. The Special Representative hopes that the Government of Equatorial Guinea will use the forthcoming municipal elections to prove to the international community that it is willing to develop a truly multi-party democratic system. The elections for mayors and town councils are a great opportunity for the people of Equatorial Guinea. In this regard, the Special Representative

urges the Government to take the necessary steps as soon as possible to have an electoral assistance mission sent to the country by the United Nations or the European Union so that those organizations can send observers.

146. The Special Representative recommends that the Commission on Human Rights should continue to follow closely the human rights situation in Equatorial Guinea and that it should concentrate on the early implementation of the recommendations repeatedly made to the country. To this end, it is essential that the Commission should renew the mandate of a special representative for Equatorial Guinea. In addition to requesting him to monitor the human rights situation in the country by preparing a report and to recommend appropriate technical assistance measures, the Commission should entrust that person with representing it in its contribution to the coordination and monitoring of any cooperation programme which, within the framework proposed in chapter IV of this report, may be agreed upon with the Government of Equatorial Guinea to improve the human rights situation.